

December 13, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L04P0012**
Proposed Ordinance No. **2004-0501**

KENTLAKE HIGHLANDS DIVISION II

Preliminary Plat Application and Application for Transfer of Development Credits

Location: South of Southeast 296th Street and west of 219th Avenue Southeast

Applicant: Kentlake Highlands, LLC
represented by **Colin Lund**
Triad Associates
11814 – 115th Avenue Northeast
Kirkland, Washington 98034
Telephone: (425) 821-8448
Facsimile: (425) 821-3481

King County: Department of Development and Environmental Services
represented by **Kim Claussen** and **Bruce Whittaker**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7167 and 296-7211
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Decision:	Approve, subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:	December 9, 2004
Hearing Closed:	December 9, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

- Surface water drainage adjustment
- Recreation area
- Transfer of development rights

SUMMARY:

An application for the subdivision of 1.87 acres into ten lots in the Urban Area, utilizing three transferable density credits, is granted preliminary approval, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Owner/Developer: Kentlake Highlands LLC
Attn. Mike Walsh
825 Fifth Avenue, Suite 202
Kirkland, WA 98033
425-202-3675

Engineer: Triad Associates
11814 115TH Avenue Northeast
Kirkland, WA 98034
425-821-8448

STR: 4-21-6

Location: Generally located south of SE 296th Street and west of 219th Avenue Southeast

Zoning: R-4
Acreage: 1.87 acres
Number of Lots: 10
Density: Approximately 5.3 units per acre
Lot Size: Ranges from approximately 4,450-7,020 square feet
Proposed Use: Single-family Detached Dwellings
Sewage Disposal: Soos Creek Sewer District
Water Supply: Covington Water District
Fire District: King County Fire District No. 17/Black Diamond
School District: Kent School District

Complete Application Date: July 26, 2004

2. Except as modified herein, the facts set forth in the DDES preliminary report to the Hearing Examiner for the December 9, 2004, public hearing are found to be correct and are incorporated herein by this reference. Said report is exhibit no. 2 in the hearing record.
3. The proposed development is within the Kent School District, which has indicated that students from this subdivision will be bussed to the elementary and junior high schools, and will walk to the senior high school. It is anticipated that the bus stop for the elementary and junior high school students will be located at or near Southeast 296th Street at 219th Avenue Southeast, or Covington-Sawyer Road at 215th Avenue Southeast. Sidewalks will be available for those students who walk to Kentlake High School.
4. The subject application is governed by the 2004 King County Comprehensive Plan which designates this area as Urban. The proposed subdivision is consistent with the policies of the Comprehensive Plan.
5. The Applicant has entered into a voluntary agreement with King County Fire District No. 17/Black Diamond Fire Department, to provide mitigation for the impacts of the proposed development on the ability of Fire District No. 17 (Black Diamond Fire Department) to provide emergency services.
6. Stormwater from this proposed development will be directed to the stormwater detention and infiltration facilities currently being constructed for the development of Kentlake Highlands Division I (DDES file no. L03P0004). This may require a surface water drainage adjustment. The design and construction of the surface water drainage facilities for Kentlake Highlands Division I anticipated accommodation of runoff from the subject property (Division II).
7. The original application and design of the plat of Kentlake Highlands Division I included the subject property. Onsite recreation area within Division I was provided in the prior plat to serve the property which is now within the separate plat of Division II. The subject property (Division II) is located approximately 400 feet from the closest recreation area within Division I, and sidewalks will exist from the subject property to that recreation area. It would be reasonable to consider the nearby recreation area within Division I to be “on the site” of this proposed development if the Department of Parks and Natural Resources concurs that the planned recreation area within Division I meets the intent of the King County Code, sections KCC 21A.14.180-190.
8. Authorized receiving sites for the transfer of development rights include unincorporated urban sites zoned R-4.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.

2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on October 8, 2004, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The subject property is an authorized receiving site for the transfer of development rights, and the transfer of three development rights for use on this site should be approved.

DECISION:

The preliminary plat of Kentlake Highlands Division II, as revised and received on October 8, 2004, and the transfer of three development rights for use on the subject site are **GRANTED PRELIMINARY APPROVAL** subject to the following conditions for final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services. The applicant shall provide verification of the Density Credits with the submittal of the engineering plans and final plat.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, adverse possession or a conflict of title.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).

5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
7. Stormwater from this subdivision is proposed to be directed to the infiltration pond to be constructed for Kentlake Highlands (L03P0004). Supporting sizing calculations and TIR shall be submitted with the engineering plans to show that adequate capacity is provided. A surface water drainage adjustment may be required to authorize the use of offsite detention and water quality facilities.
8. Individual lot infiltration drainage facilities are proposed for the lots in this project. A typical lot infiltration design shall be shown on the engineering plans. The construction and permitting of the individual infiltration facilities shall be accomplished with the building permits. Notes to this effect shall be provided on the final recorded plat and engineering plans.
9. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. Road J shall be improved to the urban minor access street standard with a standard cul-de-sac at the north end

- b. Tract A shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. A public pedestrian walkway shall also be provided across Tract A and a public pedestrian tract across the south end of Lot 3, to connect to 219th Ave Se. Tract A and the pedestrian walkway tract shall be owned and maintained by the homeowners association. An easement to the public shall be provided for these walkways. Notes to this effect shall be shown on the engineering plans and final plat. A minimum 5 foot wide paved pedestrian walkway shall be provided from Road J to 219th Ave SE.
 - c. Tract B shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. This driveway shall be owned and maintained by the lots owners served. Notes to this effect shall be included in the final plan and on the engineering plans.
 - d. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 of the KCRS.
- 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
 - 13. There shall be no direct vehicular access to or from SE 296th St. or 219th Ave SE from those lots which abut them. A note to this effect shall appear on the engineering plans and the final plat.
 - 14. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the final plat.
 - 15. The applicant shall demonstrate that suitable recreation space has been provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.) within the subject property or the plat of Kentlake Highlands (DDES File no. L03P0004), prior to engineering plan approval. Recognition of tract "W" in the plat of Kentlake Highlands as being "on the site of the proposed development", within the meaning of KCC 21A.14.180.C.2, is subject to the concurrence of King County Department of Parks and Natural Resources. If the Department of Parks and Natural Resources

does not concur with that interpretation, or if an additional area is needed, the plat shall be reconfigured as necessary to provide recreation area within the subject property. Prior to recording, the Applicant shall provide the following:

- a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
16. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
17. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. If SE 296th St and/or 219th Ave S. are a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the

- performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
18. The Applicant's agreement with King County Fire District No. 17/Black Diamond Fire (exhibit no. 15) shall be executed and its implementation bonded or otherwise secured to the satisfaction of DDES prior to final plat recording.
 19. The plat of Kentlake Highlands (file no. L03P0004) shall be recorded prior to or concurrent with the recording of the subject property (Kentlake Highlands Division II).

ORDERED this 13th day of December, 2004.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 13th day of December, 2004, to the parties and interested persons of record:

Carl Falk
1902 Bigelow Ave N., #402
Seattle WA 98109

Fowler
18503 SE 267th St.
Covington WA 98042

Kentlake Highlands LLC
Attn: Michael Walsh
825 - 5th Ave., # 202
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Carol Rogers
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Steve Townsend
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Land Use Inspections
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Larry West
DDES/LUSD
Geo Review
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Bruce Whittaker
DDES/LUSD
Prel. Review Engineer
MS OAK-DE-0100

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before December 27, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before January 3, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE DECEMBER 9, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0012.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen and Bruce Whittaker, representing the Department; and Colin Lund representing the Applicant.

The following Exhibits were offered and entered into the record:

- | | |
|----------------|--|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L04P0012 |
| Exhibit No. 2 | DDES preliminary report, dated December 9, 2004 |
| Exhibit No. 3 | Application for Land Use Permit, dated July 26, 2004 |
| Exhibit No. 4 | Environmental Checklist, received July 26, 2004 |
| Exhibit No. 5 | Determination of Non-significance, dated October 22, 2004 |
| Exhibit No. 6 | Affidavit of posting for Notice of Application indicating a posting date of September 20, 2004; received by DDES on September 23, 2004 |
| Exhibit No. 7 | Preliminary plat map (2 pages) for Kentlake Highlands Division II, received 10/08/04 |
| Exhibit No. 8 | Assessor's map – NW 04-21-06 |
| Exhibit No. 9 | Preliminary Grading and Utility Plan by Triad Assoc., dated 10/05/04 |
| Exhibit No. 10 | Level 1 Downstream Analysis by Triad Assoc., dated 5/26/04 |
| Exhibit No. 11 | Revised Level 1 Downstream Analysis by Triad Assoc., dated 10/6/04 |
| Exhibit No. 12 | Preliminary Geotechnical Investigation by Golder Assoc., Inc., dated February 10, 2003 |
| Exhibit No. 13 | Sensitive Area Special Study by Wetland Resources, Inc., dated February 26, 2003 |
| Exhibit No. 14 | Hearing Examiner's Report and Decision for file no. L03P0004, dated August 10, 2004 |
| Exhibit No. 15 | Fire District Mitigation Agreement, dated November 25, 2004 |
| Exhibit No. 16 | Transfer of Development Rights certificate no. 86, issued December 4, 2004 |
| Exhibit No. 17 | Recommended condition no. 18 |

- Exhibit No. 18 Kentlake Highlands preliminary plat street tree and landscape plans, file no L04MI0161
- Exhibit No. 19 Clarification re: Road Variance Reconsideration for file no. L03V0042, dated 8/13/04
- Exhibit No. 20 Preliminary plat map for Kentlake Highlands, file no. L03P0004; received 3/25/04
- Exhibit No. 21 DDES file no. L03P0004 (entered by reference – file will remain at DDES)

JNOC:ms

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